

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

BROOKLYN DISTILLING COMPANY LLC,

Plaintiff,

v.

BREUCKELEN DISTILLING COMPANY INC.
and BRAD ESTABROOKE,

Defendants.

1:10-cv-4903 (NG)(RML)

**DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT**

DEFENDANTS' STATEMENT OF MATERIAL FACTS


In accordance with Local Rule 56.1, Defendants submit this Statement of Material Facts on Motion for Summary Judgment.

1. The bottle of Defendants' gin appears as it is pictured in their Opposition to Plaintiff's Motion for Preliminary Injunction.

2. Defendants do not use U.S. Trademark No. 3,832,757. *See* Sherinsky Decl. Ex. 7 at 2; Sherinsky Decl. Ex. 8 at 2; Sherinsky Decl. Ex. 3 at 170:1-18.

Dated: February 22, 2011

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: 
Alex V. Chachkes
Joseph A. Sherinsky

51 West 52nd Street
New York, New York 10019
(212) 506-5000

*Attorneys for Breuckelen Distilling Company Inc. and
Brad Estabrooke*